

Docket No. 212/721

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AUG 14 2006

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of:

Timothy L. Timmerman, et al.

Serial No.: 09/884,709

Art Unit: 3635

Filed: June 19, 2001

For: Lateral Force Resisting
System

Examiner: Horton, Yvonne
Michele

FACSIMILE COVER SHEET

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Fax 571 273 8300

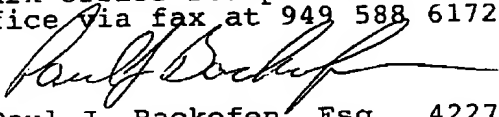
Sir:

Faxed with this transmittal sheet please find the
following correspondence for this application:

- ☒ Petition to Revive including Response to Notice of Allowability [3] pages
- ☒ Notice of Allowability [2] pages
- ☒ Notice of Abandonment [2] pages
- ☐ Petition for extension of time
- ☒ Other: credit card payment authorization

Please acknowledge receipt of these application papers by
affixing the Patent and Trademark Office Stamp to this sheet and
returning this sheet to our office via fax at 949 588 6172.

Date: August 14, 2006


Paul J. Backofen, Esq., 42278
Crockett & Crockett
24012 Calle De La Plata, Suite 400
Laguna Hills, CA 92653
Tel: 949 588 6171
Fax: 949 588 6172

* The information contained in this transmission is of a confidential nature and
intended only for the use of the entity to whom it is addressed. If you have received
this transmission in error, please notify us immediately and return the original
transmission to us.

Thank you.

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Serial No.: 09/884,709

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For: Lateral Force Resisting
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Art Unit: 3635

Examiner: Horton, Yvonne
Michele

PETITION TO REVIVE ABANDONED APPLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is responsive to the Notice of Abandonment
dated April 21, 2006.

Certificate of facsimile transmission

I hereby certify that this response (along with any paper referred to as being attached or enclosed) is being facsimile transmitted to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 at the facsimile telephone number indicated below.

Fax No. 571 273 8300

Date: August 14, 2006

Michelle Campero
Michelle Campero
03 FC:2453

08/16/2006 TRESHAHE 0000041 09084709

750.00 OP

212/721

Applicants hereby petition to revive this application pursuant to 37 C.F.R. 1.137(b). The Notice of Abandonment stated that the application was held to be abandoned because of Applicants' failure to timely file a proper reply to the Notice of Allowability dated September 20, 2005.

Applicant's respectfully traverse the requirement for corrected drawings. No changes were ever required by a PTO draftsman, no form PTO-948 was ever prepared or sent for this application, no paper was ever mailed to the applicant or applicant's counsel on or about July 14, 2003.

On May 9, 2006, I spoke to the supervisory examiner, Carl D. Freidman, and confirmed that the notation requiring corrected drawings on the notice of allowability was erroneous. Supervisory Examiner Freidman reviewed the file and confirmed that no request for corrected drawings should have been made in this case.

Applicants have included with this petition the required response to the Notice of Allowability, the petition fee required by 37 C.F.R. § 1.17(m) (\$750), a copy of the Notice of Abandonment, a copy of the Notice of Allowability, the issue fee of \$700, the publication fee of \$300, and a credit card authorization for the total fees of \$1750.

The entire delay in filing the required reply to the Notice of Allowability from the due date for the reply (December 20, 2005) until the filing of this grantable petition (August 14, 2006) was unintentional.

212/721

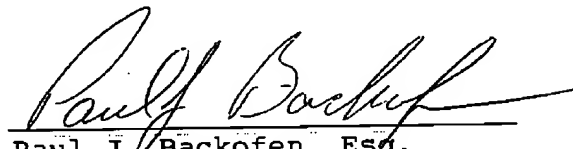
Conclusion

Applicants request that the application be revived.

☒ The Commissioner is hereby authorized to charge payment of any deficiency in the fee paid, or credit any overpayment, associated with this communication to Deposit Account 03-3700.

Date: August 14, 2006

By:


Paul J. Backofen, Esq.
Reg. No. 42278

AUG 14 2006

Docket No. 212/721

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of:

Timothy L. Timmerman, et
al.

Serial No.: 09/884,709

Filed: June 19, 2001

For: Lateral Force Resisting
System

Class-Subclass: 052-293300

Notice of Allowance:
September 20, 2005

Art Unit: 3635

Examiner: Horton, Yvonne
Michele

TRANSMITTAL OF ISSUE FEE

Commissioner of Patents & Trademarks
P.O. Box 1450
Alexandria, VA 22313
Mail Stop Issue Fee

Sir:

Enclosed please find the following papers for U.S. Patent
Application No. 09/884,709:

☒ Issue Fee(s) Transmittal, Part B

☐ Check # for ☐ \$1400 ☐ \$700 ☐ \$1700 ☐ \$1000

☒ The Commissioner is authorized to charge payment of the issue fee
of ☐ \$1400 ☐ \$700 ☐ \$1700 ☒ \$1000 charge any deficiency in
the fee paid, or credit any overpayment ☒ per the attached credit
card payment form, or ☐ to Deposit Account 03-3700.

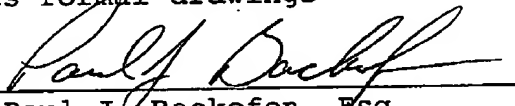
☐ Power of Attorney ☐ Assignment

☒ Notification of Change in Small Entity Status

☐ Drawing Transmittal and 0 sheets formal drawings

Date: November 29, 2005

By:


Paul J. Backofen, Esq.
Reg. No. 42,278

Certificate of Mailing (37 CFR 1.10)

I hereby certify that this response (along with any paper referred to as being attached or
enclosed) is being deposited in Express Mail using Express Mail Post Office to Addressee with the
United States Postal Service on the date shown below in an envelop addressed to MS Issue Fee,
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Express Mail No. EV494237525US
Date: November 29, 2005


Michelle Campero

EV494237525US

PART B - FEE(S) TRANSMITTAL

RECEIVED
CENTRAL FAX CENTER

AUG 14 2006

Complete and send this form, together with applicable fee(s), to: MailMail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed when appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

23371 7590 09/20/2005

CROCKETT & CROCKETT
24012 CALLE DE LA PLATA
SUITE 400
LAGUNA HILLS, CA 92653

Note: A certificate of mailing can only be used for domestic mailings of Fee(s) Transmittal. This certificate cannot be used for any other accompany papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,709	06/19/2001	Timothy L. Timmerman SR.		4077

TITLE OF INVENTION: LATERAL FORCE RESISTING SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$1700	12/20/2005

EXAMINER	ART UNIT	CLASS-SUBCLASS
HORTON, YVONNE MICHELE	3635	052-293300

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

01-56-2501
02 FC:1504
08/16/2006 TRESHOH2 000000041 09084709
Paul J. Backofen, Esq.
Crockett & Crockett
308 88 00

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
- ☒ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☒ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent, or the assignee or other party interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Date

Typed or printed name

Registration No.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 14 Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

AUG 14 2006

Docket No. 212/721

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of:

Timothy L. Timmerman, et
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Serial No.: 09/884,709

Filed: June 19, 2001

For: Lateral Force Resisting
System

Class-Subclass: 052-293300

Notice of Allowance:
September 20, 2005

Art Unit: 3635

Examiner: Horton, Yvonne
Michele

NOTIFICATION OF CHANGE IN SMALL ENTITY STATUS


Commissioner of Patents & Trademarks
Washington, D.C. 20231

Sir:

U.S. Patent Application No. 09/884,709 meets the
conditions for payment of the reduced fees for small entity
status.

Date: November 29, 2005

By:


Paul J. Backofen, Esq.
Reg. No. 42,278



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884709	06/19/2001	Timothy L. Timmerman SR.		4077
23371	7590	09/20/2005		

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SUITE 400
LAGUNA HILLS, CA 92653

EXAMINER	
HORTON, YVONNE MICHELE	

ART UNIT	PAPER NUMBER
3635	

DATE MAILED: 09/20/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

Notice of Allowability

Application No.

09/884,709

Examiner

Yvonne M. Horton

Applicant(s)

TIMMERMAN ET AL

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 6/16/05.
2. ☒ The allowed claim(s) is/are 1-7 and 9-11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 7/14/03.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


 Carl D. Friedman
 Supervisory Patent Examiner
 Group 3600



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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23371 7590 04/21/2006

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24012 CALLE DE LA PLATA
SUITE 400
LAGUNA HILLS, CA 92653

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment	Application No.	Applicant(s)	
	09/884,709	TIMMERMAN	
	Examiner	Art Unit	
	HORTON	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 -) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☒ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - b) ☒ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

lgd

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.